

Message Text

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ACTION STR-07

INFO OCT-01 STRE-00 ISO-00 IO-13 JUSE-00 AGRE-00
CEA-01 CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01
INR-10 INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01
CTME-00 AID-05 SS-15 ITC-01 TRSE-00 ICA-11 SP-02
SOE-02 OMB-01 DOE-15 AF-10 ARA-10 EA-10 EUR-12
NEA-11 OIC-02 /169 W
-----053036 091901Z /43

P 091826Z MAY 78
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 9427
INFO AMEMBASSY BRASILIA
AMEMBASSY BRUSSELS
AMEMBASSY TOKYO

LIMITED OFFICIAL USE SECTION 01 OF 02 GENEVA 07094

USMTN USEEC

ACTION STR FOR KELLY, GREENWALD, FLAIG

STR PASS CODEL

E.O. 11652, N/A
TAGS: ETRD, MTN
SUBJECT: DISPUTE MANAGEMENT - "3 PLUS 3" DISCUSSION ON
CURRENT APPROACHES, MAY 5, 1978

REF: (A) GENEVA 6841; (B) GENEVA 6742 (NOTAL)

1. SUMMARY. SERIES OF RESTRICTED DC-LDC STOCK-TAKING
SESSIONS ON FRAMEWORK TOPICS CONCLUDED MAY 5 WITH DIS-
CUSSION OF VARIOUS CURRENT APPROACHES TO DISPUTE
MANAGEMENT. THE UPSHOT: U.S. MTN DEL DRAFT "UNDERSTAND-
ING" GIVEN TENTATIVE SUPPORT BY BRAZIL, EC PAPER ENDORSED
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BY JAPAN AND RECOGNIZED AS ANOTHER POSSIBLE WORKING BASIS
BY U.S. AND LDCS, "EXCLUSIVE" LDC APPROACH DROPPED IN
BRAZILIAN PROPOSAL, AND EXCESSIVE LEVEL OF DETAIL IN
SWISS DRAFT ACKNOWLEDGED BY LDCS AS WELL AS DCS. IN
NEXT PHASE DG LONG TO MEET SEPARATELY WITH EXPANDED DC
AND LDC GROUPS TO "ACCELERATE" FRAMEWORK PROGRESS.
END SUMMARY.

2. GATT DG LONG RE-CONVENED "3 PLUS 3" GROUP MAY 5 TO DISCUSS FRAMEWORK TOPIC III("DISPUTE MANAGEMENT, I.E., NOTIFICATION, CONSULTATIONS, SURVEILLANCE AND DISPUTE-SETTLEMENT PROCEDURES)--ALTHOUGH EXPLICIT LINKAGE TO FRAMEWORK GROUP, OR ANY OTHER MTN GROUP, CAREFULLY AVOIDED. PRESENT WERE U.S., EC, JAPAN, BRAZIL, INDIA, YUGOSLAVIA, GATT-DG AND BOTH DEPUTY DGS PLUS STAFF. U.S. (MARK) REITERATED ARGUMENTS FOR KEY ELEMENTS CONTAINED IN MTN DEL DISCUSSION DRAFT ON SUBJECT (REF. B)--I.E., STRENGTHENING OF NOTIFICATION/CONSULTATION OBLIGATIONS AND PROCEDURES; ALLOWING FOR RESOLUTION OF DISPUTES AT LESSER LEVELS OF "CONFRONTATION"; MORE EFFECTIVE, CLEARLY-UNDERSTOOD PANEL REVIEW PROCEDURES; AND SOME FORM OF SURVEILLANCE/FOLLOW-UP. NOTING RECENT DRAFTS CIRCULATED INFORMALLY BY EC AND SWISS DELS SIMILARLY AIMED AT DEVELOPING "GENERAL APPROACH" TO DISPUTE MANAGEMENT--TOGETHER WITH CANADA'S DISPUTE SETTLEMENT PROPOSALS FOR CERTAIN NTM CODES, WHICH CANADIAN DEL ADVISED US CONSTITUTES THEIR "APPROACH"--U.S. DESCRIBED PROGRESS BEING MADE IN INFORMAL PLURILATERAL DISCUSSIONS INVOLVING BOTH DCS AND LDCS (REF. B AND PREVIOUS). U.S. SUGGESTED THAT THIS PROCESS CONTINUE WITH A VIEW TO PERFECTING EACH APPROACH AS A DISTINCT "MODEL" FOR DISPUTE MANAGEMENT AND WITH CHOICE TO BE MADE LATER AS TO WHICH MODEL, OR WHICH ELEMENTS OF EACH, MOST SUITABLE. BRAZIL LIMITED OFFICIAL USE

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(AMB. MACIEL) ENDORSED U.S. SUGGESTION AND TENTATIVELY SUPPORTED APPROACH TAKEN IN MTN DEL DRAFT "UNDERSTANDING"--AND NOTED IN PASSING THAT BRAZIL WILLING TO DROP "EXCLUSIVE" LDC APPROACH CONTAINED IN ITS EARLIER PROPOSAL (MTN/INF/16).

3. EC (LUYTEN) CHARACTERIZED ITS DRAFT "UNDERSTANDING" (SEE REF. B) AS REFLECTING FLEXIBLE AND PRAGMATIC APPROACH, SINCE GATT SYSTEM TOO DELICATE AND LEVEL OF DC AND LDC OBLIGATIONS TOO DISPARATE FOR MORE AMBITIOUS EFFORT. JAPAN (UKAWA) SUPPORTED BOTH CONTENT OF AND RATIONALE BEHIND EC PAPER. U.S. ACKNOWLEDGED THAT GENERAL FORM OF EC DRAFT--I.E., BUILDING ON COMMON UNDERSTANDING OF CURRENT PRACTICE UNDER GATT--SEEMS APPEALING BUT FALLS SHORT WHEN IT COMES TO ACTUALLY IMPROVING ON EXISTING PROCEDURES. LDCS DECLINED TO SUPPORT EC APPROACH BUT, SIGNIFICANTLY, NEITHER WERE THEY OVERTLY OFFENDED BY ITS 'PRAGMATIC AND TRADITIONALISTIC' TENOR. PASSING REFERENCES TO SWISS DRAFT (REF. B) INCLUDED CRITICISM BY BRAZIL AND YUGOSLAVIA (TOMIC), AS WELL AS BY EC AND JAPAN, THAT IT WAS "EXCESSIVELY DETAILED." COMMENT: THESE

DEVELOPMENTS MAY HAVE ALLAYED SOMEWHAT EC'S FEARS IN
HAVING LDC DELS INCLUDED IN DISPUTE MANAGEMENT DISCUSSIONS
--NAMELY, THAT LDCS WOULD CAPITALIZE ON LEVEL OF PRECISION
AND DETAIL IN SWISS DRAFT IN ORDER TO DENIGRATE EC'S
MORE "PRAGMATIC" APPROACH. END COMMENT.

4. U.S., SUPPORTED BY BRAZIL, REMINDED GROUP THAT EC
APPROACH DOES NOT TOUCH ON NOTIFICATION/CONSULTATION/
SURVEILLANCE ELEMENTS OF DISPUTE MANAGEMENT TOPIC AND
DREW ATTENTION TO COVERAGE OF THESE OTHER ELEMENTS IN
MTN DEL DRAFT "UNDERSTANDING." DISCUSSION CONCLUDED
WITHOUT COMMITMENT TO ANY PARTICULAR APPROACH AS
EXCLUSIVE WORKING TEXT, ALTHOUGH AMB. MACIEL EXPRESSED
OPTIMISM ON PROSPECTS FOR REACHING AGREEMENT IN LIGHT
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OF "APPARENT CONVERGENCE" AMONG DELS' VIEWS. U.S. AGREED WITH BRAZIL'S PROGNOSIS, SUGGESTING CONSENSUS MAY BE DEVELOPING ON SUBSTANTIVE POINTS WHILE "PACKAGING" OF EVENTUAL AGREEMENT REMAINS OPEN TO QUESTION.

5. LONG ADVISED GROUP THAT, SINCE DISCUSSION OF ALL FRAMEWORK TOPICS IN "3 PLUS 3" SETTING NOW COMPLETED, HE INTENDS TO CONVENE EXPANDED GROUPS OF DCS AND LDCS, EACH MEETING SEPARATELY (PERHAPS TWICE DURING MAY) TO CONSIDER ALL FRAMEWORK TOPICS AND "ACCELERATE PROGRESS" THEREON; JOINT DC-LDC SESSIONS WOULD THEN ENSUE. FIRST MEETING OF DCS WITH DG NOW SET FOR AFTERNOON MAY 11.
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6. FYI. SUPPLEMENTARY FRAMEWORK PAPER CIRCULATED AT MAY 2 SESSION OF 3-PLUS-3 GROUP BY INDIA (KUMAR) WILL BE HAND-CARRIED TO GREENWALD, STR, VIA NEXT WASHINGTON TRAVELLER. END FYI.

7. DRAFTED BY MARK MCDONALD

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